

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:
v.	: Case No. 3:09-cr-25-KRG-KAP-1
LEWIS H. ERVIN,	: Case No. 3:11-cv-121-KRG-KAP
Movant	:

MEMORANDUM ORDER

The motion to vacate, docket no. 82, was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(3), and Local Rule 72 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on September 7, 2012, docket no. 97, recommending that the motion to vacate be denied, that a certificate of appealability be denied, and that the government's motion to dismiss, docket no. 94, be granted.


The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. No one has filed timely objections and the time to do so has expired.

After review of the record of this matter, together with the Report and Recommendation, and noting the lack of timely objections thereto, the following order is entered:

AND NOW, this 25th day of September, 2012, it is

ORDERED that the motion to vacate, docket no. 82, is denied; the motion to dismiss, docket no. 94, is granted. No certificate of appealability is issued. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark the civil matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by ECF to counsel of record and by U.S. Mail to:

Lewis H. Ervin, III, Reg. No. 11288-068
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